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*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

NOTICE OF ADJOURNMENT OF HEARING

Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* (“SIPA”), and the estate of Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), by and through his undersigned counsel, hereby submits this Notice of Adjournment of Hearing on the Motion for an Order Approving Sixth Allocation of Property to the Fund of Customer Property and Authorizing Sixth Interim Distribution to Customers (the “Sixth Allocation Motion”), ECF No. 9807, and respectfully states as follows:

1. On April 15, 2015, the Trustee filed the Sixth Allocation Motion, which sought approval to release \$1.249 billion held in reserve and distribute approximately \$904 million to customers with allowed claims. These funds became available for distribution following the decision of the United States Court of Appeals for the Second Circuit on the “time-based damages” issue. *In re Bernard L. Madoff Inv. Sec. LLC*, 779 F.3d 74 (2d Cir. Feb. 20, 2015) (the “Time-Based Damages Decision”).

2. The Trustee cannot distribute these funds until the time limit to file a petition for certiorari expires with no petition being filed or a final, non-appealable order is entered on the Time-Based Damages Decision.

3. At the time the Trustee filed his Sixth Allocation Motion, no petitions for certiorari had been filed on the Time-Based Damages Decision. The time period to file a petition for certiorari was initially due to expire on May 21, 2015. The hearing date on the Sixth Allocation Motion was set for May 29, 2015, which would permit the hearing to go forward if no petitions for certiorari were filed by that date. The Trustee indicated in his Sixth Allocation Motion that the hearing may not be able to go forward if a petition for certiorari was filed. *See* Sixth Allocation Motion at ¶ 8.

4. A group of claimants represented by Becker & Poliakoff LLP moved for an extension of time within which to file a petition for certiorari with the Supreme Court, which was granted on April 28, 2015, extending their time to file a petition for certiorari to July 20, 2015. *Marsha Peshkin v. Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC*, No. 14A1099 (2015).

5. After the extension to file the petition for a writ of certiorari was granted, the Trustee filed a notice of adjournment of the hearing on the Sixth Allocation Motion, adjourning the hearing from May 28, 2015 to July 29, 2015. ECF No. 10037. The purpose of the adjournment was to allow the extended time period within which to file a petition for certiorari to

expire. If no petition was filed, the Trustee would seek the Court's approval to allocate and distribute funds from the fund of customer property, as outlined in the Trustee's Sixth Allocation Motion.

6. On July 20, 2015, Marsha Peshkin, et al., filed a petition for a writ of certiorari with the United States Supreme Court.

7. Accordingly, the hearing on the Trustee's Sixth Allocation Motion, which was previously adjourned to July 29, 2015 at 10:00 a.m., in the above-captioned proceeding has been adjourned *sine die*. The Trustee will obtain a hearing date on the Sixth Allocation Motion once the petition for a writ of certiorari is determined by the Supreme Court.

Dated: New York, New York
July 21, 2015

Respectfully submitted,

/s/ David J. Sheehan

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